

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CHRISTOPHER D. MILLER

CIVIL ACTION

v.

JOSEPH NISH, et al.

NO. 08-965

**ORDER**

AND NOW, this 22nd day of July, 2008, upon careful and independent consideration of the pleadings and record herein, and after review of the Report and Recommendation of Chief United States Magistrate Judge Thomas J. Rueter, it is hereby

**ORDERED**

1. The Report and Recommendation is APPROVED and ADOPTED;
2. The petition for a writ of habeas corpus is DISMISSED, without prejudice, for failure to exhaust state court remedies;
3. The Motion for Appointment of Counsel (Doc. No. 7) is DENIED; and
4. A certificate of appealability is not granted.

BY THE COURT:

  
HARVEY BARTLE, III, Ch. J.